IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

WP(C).No. 14598 of 2007(K)

PETITIONER:

T.K.VIBHURAJ, ASSISTANT OPERATOR,
BEAD COILING, APPOLO TYRES,
KALAMASSERY JN. RESIDING AT THAZHATHUMURIYIL
HOUSE, K.R.PURAM P.O., CHERTHALA.

BY ADV. SRI.C.R.SIVAKUMAR
SMT.G.VIDYA

RESPONDENTS:
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1. THE DISTRICT COLLECTOR,
CIVIL STATION, ALAPPUZHA.

2. THE JOINT REGIONAL TRANSPORT OFFICER,
CHERTHALA.

3. THE TAHSILDAR, TALUK OFFICE,
CHERTHALA.

4. THE VILLAGE OFFICER,
PALLIPURAM VILLAGE, CHERTHALA.

5. E.M.JOSEPH, ELANJITHADATHIL HOUSE,
MANGANAM, KOTTAYAM DISTRICT.

6. VALSAMMA GEORGE,
ELANJITHADATHIL HOUSE, MANGANAM,
KOTTAYAM DISTRICT.

7. THE PROPRIETOR,
BALAJI FINANCE, NO.47, KALATHI PILLAI STREET,
SOWCARPET, MADRAS.

8. THE GENERAL MANAGER,
APPOLO TYRES, KALAMASSERY.

R7 BY ADV. SRI.N.RATHEESH
R1 TO R4 BY GOVERNMENT PLEADER SRI. P.N. SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/08/2007, ALONG WITH COC NO. 719 OF 2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WPC 14598/07)

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE HIRE RENTAL PAYMENTS ISSUED BY THE 6TH RESPONDENT TO THE 7TH RESPONDENT DATED 15.5.1996

EXT.P2 TRUE COPY OF THE RECEIPT ISSUED BY THE 7TH RESPONDENT DATED 7.1.1997 , 12.3.1997 AND 4.9.1996

EXT.P3 TRUE COPY OF THE AGREEMENT DATED 22.1.1999

EXT.P4 STRUE COPY OF THE ORDER PASSED BY THE FIRST RESPONDENT DATED 8.10.1999

EXT.P5 TRUE COPY OF THE JUDGMENT IN OP 19600 OF 2000 DATED 28.7.2004

EXT.P6 TRUE COPY OF THE JUDGMENT IN WA 1933/04 DATED 29.10.04

EXT.P7 TRUE COPY OF THE JUDGMENT IN WPC 2994/07 DATED 25.1.2007

EXT.P8 TRUE COPY OF THE DETAILS OF AUCTION MAHAZAR PREPARED BY THE 4TH RESPONDENT.

EXT.P9 TRUE COPY OF THE NOTICE AND PROHIBOTORY ORDER ISSUED BY THE THIRD RESPONDENT DATED 26.3.2007

EXT.P10 TRUE COPY OF THE SALARY CERTIFICATE ISSUED BY THE 8TH RESPONDENT DATED 7.4.2007

EXT.P11 TRUE COPY OF THE DEMAND NSOTICE DATED 11.1.2007

EXT.P12 TRUE COPY OF THE SALE LETTER (AGREEMENT)

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 14598 OF 2007 &
C.O.C. No. 719 of 2007

Dated this the 10th day of August, 2007

JUDGMENT

Petitioner is challenging recovery proceedings for recovery of arrears of motor vehicle tax in respect of a matador bearing regiswtration No. KL-4/A 2314 for the period commencing from 1.1.1997 to 28.8.1998. According to the petitioner, vehicle was sold to the fifth respondent. Service could not be served on the fifth respondent because address shown is wrong. However, Government Pleader got the matter enquired into by police, and police have reported that fifth respondent gave a statement that vehicle was purchased by him after arranging funds from Balaji Finance, Chennai, who have taken away the vehicle. The registration and permit of the vehicle continue to be in the petitioner's name. Being the registered owner, petitioner is liable for payment of motor vehicle tax even though Section 3 provides for liability on person in control and possession of the vehicle. In the circumstances, and since the vehicle on enquiry is

now said to be taken away by the Financier from Kerala, W.P. is disposed of rejecting the petitioner's challenge against recovery proceedings for recovery of arrears of tax from 1.1.1997 to 28.8.1998. If petitioner does not make payment, such arrears could be recovered from the petitioner. However, there will be direction to respondents not to recover tax from the petitioner from 1.9.1998 onwards as the vehicle is admittedly taken away by the Financier. It is for the respondents to proceed against the Financier for recovery of arrears of motor vehicle tax due for later period as on enquiry vehicle is found to be in control and possession of the Financier. Having regard to the peculiar facts of this case, there will be direction to respondents to waive surcharge if the petitioner clears the balance arrears of motor vehicle tax after giving credit for Rs. 20,000/- already paid by the petitioner, on or before 30.9.2007.

WPC and COC are disposed of as above.

(C.N.RAMACHANDRAN NAIR)
Judge